

The Use Tax Act imposes a tax upon the privilege of using in this State tangible personal property purchased anywhere at retail from a retailer. See 86 Ill. Adm. Code 150.101. (This is a GIL).

December 7, 2000

Dear Xxxxx:

This letter is in response to your letter dated September 11, 2000. We apologize for the delay in responding to your letter. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. Please see subsections (b) and (c) of the enclosed copy of 2 Ill. Adm. Code 1200.120.

In your letter, you have stated and made inquiry as follows:

This past week I was going to order an item from QVC, by telephone.

Upon discussing the end price of the product, shipping and handling, they also added a charge. I requested what is that amount for? They informed me the State of Illinois charges a Use Tax on all sales to customers in Illinois.

I have lived in Illinois 70 years, and to date have never heard of a use tax being imposed on purchases in the State of Illinois. Is this correct? Is this legal? What is this use tax?

Kindly advise.

Illinois taxes the retail sale and use of tangible personal property under two separate but related statutes. The Retailers' Occupation Tax Act imposes a tax upon persons engaged in the business of selling at retail tangible personal property. See the enclosed copy of 86 Ill. Adm. Code 130.101. The Use Tax Act imposes a tax upon the privilege of using in this State tangible personal property purchased anywhere at retail from a retailer. See the enclosed copy of 86 Ill. Adm. Code 150.101. These taxes together comprise what is commonly known as "sales" tax in Illinois.

The Retailers' Occupation Tax Act was enacted in 1933 and the complimentary Use Tax Act was enacted in 1955. It may be somewhat confusing, but a retailer incurs a Retailers' Occupation Tax liability when the retailer makes a retail sale to a customer. The retailer must remit this tax to the Illinois Department of Revenue. However, the retailer also collects the customer's Use Tax on that purchase of an item. The retailer then gets to keep the amount of Use Tax collected from the customer as his reimbursement for his Retailers' Occupation Tax liability that he pays to the Department of Revenue.

The Use Tax was enacted to protect Illinois retailers from competition from out-of-State retailers. Since a customer incurs Use Tax on any purchase from either an in-State or out-of-State retailer, the Illinois retailers are put on a level playing field with the out-of-State retailers.

The customers are required to pay their Use Tax liability to the retailers in this State at the time when they make a purchase in this State. If Illinois customers purchase from certain out-of-State retailers who have sufficient contact (nexus) with this State, those retailers are required to collect Illinois Use Tax from their Illinois customers.

If Illinois customers purchase from certain out-of-State retailers who do not have sufficient contact (nexus) with this State, those retailers are not required to collect Illinois Use Tax from their Illinois customers. However, the Illinois customers are still liable for Illinois Use Tax on their purchases and must file a return (Form ST-44) and pay their Use Tax liability directly to the Illinois Department of Revenue. Some out-of-State retailers who do not have sufficient contact (nexus) with this State choose to voluntarily register to collect Illinois Use Tax so that their customers are relieved of the responsibility of filing a return and remitting the tax directly to the Department.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of subsection (b) of

Very truly yours,

Terry D. Charlton

TDC:msk